

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

George Booker,	:	CIVIL ACTION
Petitioner	:	
	:	
v.	:	
	:	
Donald T. Vaughn, et al.,	:	No. 02-CV-4481
Respondent	:	

REPORT AND RECOMMENDATION

JAMES R. MELINSON
CHIEF U.S. MAGISTRATE JUDGE

Before this court is a *pro se* petition for a writ of *habeas corpus* filed pursuant to 28 U.S.C. § 2254. The petitioner, George Booker, is presently incarcerated at the State Correction Institution at Graterford. For the reasons set forth below, this court recommends that the petition be DENIED for lack of jurisdiction.

Booker filed a previous *habeas* petition in this court on December 26, 1996. After reviewing his claims on the merits, the petition was dismissed with prejudice. Booker v. Vaughn, 96-CV-8625 (J. Thomas O'Neill, Jr., 7/16/97). Under 28 U.S.C. § 2244(b)(3) “[b]efore a second or successive application permitted by this section is filed in the district court, the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application.” There is nothing contained in this record to indicate that Booker received such authorization.

Accordingly, this court makes the following:

RECOMMENDATION

AND NOW, this day of August, 2002, IT IS RESPECTFULLY RECOMMENDED that the petition for a writ of *habeas corpus* be DENIED for lack of jurisdiction. It is also RECOMMENDED that a certificate of appealability not be granted.

BY THE COURT:

JAMES R. MELINSON
CHIEF U.S. MAGISTRATE JUDGE

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ORDER

THOMAS N. O'NEILL, JR., J.

AND NOW, this day of , 2002, upon careful and independent consideration of the petition for a writ of *habeas corpus*, and after review of the Report and Recommendation of Chief United States Magistrate Judge James R. Melinson, IT IS ORDERED that:

1. The Report and Recommendation is APPROVED and ADOPTED.
2. The petition for a writ of *habeas corpus* is DENIED for lack of jurisdiction.
3. There is no probable cause to issue a certificate of appealability.

BY THE COURT:

THOMAS N. O'NEILL, JR., J.